

REMARKS

Reconsideration is respectfully requested in view of the amendments and remarks made herein. Claims 1-2 and 4-11 are pending and stand rejected. New claim 11 has been added, support for new claim 11 can be found in the specification at least on page 4, lines 4-9.

Claims 1-2 and 4-10 stand rejected under 35 USC 103(a) as being unpatentable over Lambrecht, (USP No. 6,181,800 B1) in view of Thomas et al. (USP No. 7,065,498).

A claimed invention is prima facie obvious when three basic criteria are met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings therein. Second, there must be a reasonable expectation of success. And, third, the prior art reference or combined references must teach or suggest all the claim limitations.

Claims 1 and 10 have been amended to recite the limitations of “enabling the ability to identify the listener by comparing identified parameters in audio data with parameters being stored in a database.” Applicants submit that Lambrecht or Thomas, alone or in combination, fail to teach this limitation.

Further, as indicated by the Office Action Lambrecht fails to teach a method for a service provider to distribute an audio signal to a listener, as claimed in claim 1.

The addition of Thomas fails to cure the infirmities of Lambrecht. The Office Action indicates that Thomas teaches the above limitations in col. 5, lines 15-20. Applicants respectfully disagree. In this section, Thomas teaches a client and server exchange authentication certificates and establish encryption protocols to use for further communication protocol and searches or creates a customer file. Thomas does not use a changed or personalized audio signal to allow access. Moreover, there would be no reason to since access to content in Thomas is determined via authentication certificates and encryption protocols.

With regard to independent claim 5, both Lambrecht and Thomas, alone or in combination fail to teach the limitations of “detecting said first listener parameters used for changing the audio impression of said audio signal, comparing said detected first listener parameters with second listener parameters and playing back said changed audio signal if said detected first listener parameters identify a listener being identical to the listener identified by said second listener parameters.” The Office Action points to col. 5, lines 55-63 and Figs 1 & 2. The applicants respectfully disagree. In this section Lambrecht teaches an error correction method using calculated positional errors and if they are within an acceptable range, the current HRTF is used. In particular:

“In step 208, the positional error between the expected perceived position of the sound and the actual perceived position of the sound is detected. If sounds from multiple positions were output, positional errors are calculated for each expected perceived position. In step 210, the positional errors are compared with an acceptable range of error, then in a step 212 the current HRTF is used.”

Nothing therein teaches detecting said first listener parameters used for changing the audio impression of said audio signal, comparing said detected first listener parameters with second listener parameters and playing back said changed audio signal if said detected first listener parameters identify a listener being identical to the listener identified by said second listener parameters, as claimed in claim 5.

Accordingly, the cited references fails to render the obvious the subject matter recited in claims 1, 5 and 10 because the combined references fails to teach or suggest all the elements recited in these claims.

For at least this reason, applicant submits the reason for the rejection has been overcome and respectfully requests withdrawal of the rejection and allowance of independent claims 1, 5 and 10.

New claim 11 recites the limitations of “wherein the listener parameters in the set of head related transfer functions have been chosen between a number of

sets of listener parameters each being specific for said listener, thereby allowing the listener to select an audio impression of specific interest.” The Office Action point to col. 2, lines 23-34 to show some of these limitations. Applicants respectfully disagree. In this section Lambrecht teaches selecting the best fit HRTF using User inputs, thereafter the computer determines positional errors in the expected and actual perceived position of the sound. Then a generalized HRTF is adjusted. Thus, the parameters are not selected from a number of sets specific to a listener, but by a computational method. Accordingly, Lambrecht fails to teach the above limitations. Further, applicants can find nothing in Lambrecht that teaches or implies the limitation of “allowing the listener to select an audio impression of specific interest.” Accordingly, applicants respectfully submit that claim is allowable.

With regard to claims 2, 4 and 6-9 these claims depend from an independent claim discussed above, which have been shown to be allowable in view of the cited reference. Accordingly, each of claims 2, 4 and 6-9 is also allowable by virtue of its dependence from an allowable base claim.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'Thomas J. Onka', is written over a horizontal line.

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